

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES	:	
	:	CRIMINAL NO. 99-406-1
V.	:	99-406-3
	:	99-406-4
DAMIEN DELALUNA,	:	99-406-5
ALEJANDRO SALAS,	:	99-406-7
JAVIER RODRIGUEZ,	:	99-406-8
ALBERTO MORALES,	:	99-406-9
VICTOR MARRERO,	:	99-406-10
JUAN LUGO,	:	
MIGUEL SANCHEZ, and	:	
ROBERTO OSORIO	:	

MEMORANDUM ORDER

Presently before the court is the government's Joint Motion for Continuance of Trial. Although it is not made explicit, the court assumes from the term "Joint" that each defendant joins in the motion.

The government's characterization of the case as "complex" is not unjustified. The case involved 56 charges against eight defendants. All of the charges, however, are factually and temporally interrelated. The defendants are charged with conspiring to distribute narcotics and with distributing, possessing for distribution and using a telephone to facilitate the distribution of narcotics on various occasions between December 11, 1998 and March 30, 1999 in furtherance of the conspiracy. Moreover, the court has already granted a similar prior motion.

The indictment in this case was filed on July 17, 1999. Trial was scheduled to commence on November 1, 1999. At that time, counsel represented that additional time was needed to ensure adequate preparation and to conclude plea negotiations. Indeed, it was represented in the October 1999 motion that "proposed plea agreements are being forwarded to counsel." The court continued the trial date to January 10, 2000.

The court cannot conscientiously conclude from what has been submitted that with the exercise of due diligence, the parties lacked the reasonable time necessary for effective preparation of this case for trial on January 10th.

The motion states that the parties "remain actively engaged in pursuing a non-trial disposition," but these efforts have been hampered by the inability of the Marshal's Service to transport defendants for proffer sessions and the need for "further investigation" to address "certain unresolved issues." The defendants' sentencing exposure is substantial. The court does not wish to deprive them of a fair opportunity to qualify for departure motions or to deprive the government of assistance which could result in the further disruption of narcotics trafficking. See U.S. v. Fields, 39 F.3d 439, 445 (3d Cir. 1994) (need for more time to complete plea negotiations may justify an "ends of justice" continuance).

At some point, however, the interest in efficiently resolving criminal charges becomes paramount. Aside from the interests of the parties, there is an important public interest in the prompt administration of criminal justice which underlies the Speedy Trial Act. See U.S. v. Saltzman, 984 F.2d 1087, 1091 (10th cir. 1993); U.S. v. Dickie, 775 F.2d 607, 610 (5th Cir. 1985); U.S. v. Carrasquillo, 667 F.2d 382, 389-90 & n.3 (3d Cir. 1991). There is no suggestion that the shortage of local housing and of manpower which have constrained the Marshal will abate in the near future. There is no suggestion that counsel and DEA agents are prepared to meet with defendants at secure places within or near the facilities at which they are now housed. There is no suggestion of how much time is required for the government to complete the contemplated "further investigation" of information provided in the course of plea discussions.

On balance, the court concludes that the ends of justice to be served by allowing a further limited opportunity to complete the plea negotiation process outweighs the interest of the defendants and the public in a speedy trial. Should such negotiations be successfully consummated, the result would likely be to the distinct net benefit of the defendants and drug law enforcement efforts, and thus the public.

The court will grant a final continuance of seven weeks on condition that all counsel agree to a special listing and attachment for February 28, 2000 and heed the court's admonition

to undertake whatever efforts may be required to conclude the plea negotiations in the interim and otherwise fully prepare to proceed to trial at that time.

ACCORDINGLY, this day of January, 1999, consistent with the foregoing and pursuant to 18 U.S.C. § 3161(h)(8)(A), **IT IS HEREBY ORDERED** that the Joint Motion for Continuance is **GRANTED** and the trial of this case is continued to February 28, 2000.

BY THE COURT:

JAY C. WALDMAN, J.